

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on September 15, 2008 and the Advisory Action mailed on November 21, 2008, which have been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-8 and 10-19 remain in this application, where claims 10-19 have added. Claims 1 and 8 are independent.

In the Final Office Action, claims 1-9 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,469,978 (Ohata) in view of U.S. Patent Application Publication No. 2002/0150009 (Tokumitsu). It is respectfully submitted that claims 1-8 and 10-19 are patentable over Ohata and Tokumitsu for at least the following reasons.

Ohata is directed to a rewritable optical disk with spare area or defect management formatted with different group configurations without changing the firmware. As specifically recited in the Abstract, the size of the spare area or defect management is

specified at initialization.

Tokumitsu is directed to an information recording medium which includes a user data area and a medium management information area and allows update of information. Information for identifying the allowable number of times of recording of information is previously recorded on the recording medium. Paragraph [0002] discloses that when a DVD-RAM drive detects a defective block at the recording area on the information recording medium during the recording operation, an alternative block is assigned and a defect management table used for management of correspondence between the defective block and alternative block is recorded on the medium.

It is respectfully submitted that Ohata, Tokumitsu and combination thereof, do not disclose or suggest the present invention as recited in independent claim 1, and similarly recited in independent claim 8 which, amongst other patentable elements, recites (illustrative emphasis provided):


an assignment unit for adapting the assignment information in dependence of a detected defect, detected during recording, by creating new defect management area having a starting physical address near the detected defect.

Creating new defect management area is nowhere disclosed or suggested in Ohata and Tokumitsu, alone or in combination. Accordingly, it is respectfully requested that independent claims 1 and 8 be allowed. In addition, it is respectfully submitted that claims 2-7 and 10-19 should also be allowed at least based on their dependence from independent claims 1 and 8 as well as their individually patentable elements.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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